

REMARKS

The present Amendment is in response to the Examiner's Office Action mailed January 8, 2007. The specification is amended to correct a typographical error and claims 1, 12, 14, 15, and 22 are amended. Claims 1-36 are now pending in view of the above amendments.

Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks. For the Examiner's convenience and reference, Applicants' remarks are presented in the order in which the corresponding issues were raised in the Office Action.

I. General Considerations

Applicants note that the remarks presented herein have been made merely to clarify the claimed embodiments from elements purported by the Examiner to be taught by the cited reference. Such remarks, or a lack of remarks, are not intended to constitute, and should not be construed as, an acquiescence, on the part of the Applicants: as to the purported teachings or prior art status of the cited references; as to the characterization of the cited references advanced by the Examiner; or as to any other assertions, allegations or characterizations made by the Examiner at any time in this case. Applicants reserve the right to challenge the purported teaching and prior art status of the cited references at any appropriate time.

In addition, the remarks herein do not constitute, nor are they intended to be, an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed herein are presented solely by way of example. Consistent with the foregoing, the discussion herein is not intended, and should not be construed, to prejudice or foreclose contemporaneous or future consideration, by the Applicants, of additional or alternative distinctions between the claims of the present application and the references cited by the Examiner, and/or the merits of additional or alternative arguments.

II. Claim Rejections

A. Rejection Under 35 U.S.C. § 102(e)

In the Office Action, the Examiner rejected claims 1-6, 8-10, 12, 13, 15, 16, 18-20, 22-28, 30-32, and 34-36 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Publication No. 2003/0223670 to Nikolov et al. ("Nikolov"). Applicants respectfully disagree.

Applicants respectfully note that a claim is anticipated under 35 U.S.C. § 102(a), (b), or (e) only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Further, the identical invention must be shown in as complete detail as is contained in the claim. Finally, the elements must be arranged as required by the claim. *MPEP* § 2131.

Claim 1 recites an optical coupler comprising, among other things: “. . . at least one optical component configured to split an input light beam . . . into a first output light beam having a first polarization state and a second output light beam having a second polarization state . . . wherein changing an angular orientation of [an input optical fiber] polarization axis relative to an optical axis of said at least one optical component changes a coupling ratio.” In discussing this claim limitation, the Examiner referred Applicant to “paragraph 0066 in light of paragraph 0053; paragraph 0060 in light of paragraph 0053; also see Fig. 12.” *See* Office Action, p. 3. However, these paragraphs and figure 12 do not pertain to a splitter configuration of the device in *Nikolov*.

Nikolov is generally directed to an optical polarization beam combiner/splitter. *See* Title and Abstract. Figure 12 and paragraphs 0060 and 0066 are particularly directed to a combiner configuration of the device, which is opposite to the claimed configuration of “at least one optical component configured to split an input light beam.” The features described in paragraphs 0060 and 0066 and in figure 12 pertain only to a combiner configuration. In direct contrast, paragraph 0069 describes features pertinent to *Nikolov*’s beam splitter configuration. In particular, paragraph 0069 states that “[t]he output location of the S and P polarized beams can be switched between the optical fibers 570 and 580 by rotating the thin film wire-grid polarizer 550 by 90 degrees.” Thus the effects of rotating polarizer 550 that are depicted in figure 12 and described in paragraphs 0060 and 0066 are replaced with different effects in the splitter configuration.

In view of the foregoing, Applicants respectfully submit that the Examiner has failed to establish that *Nikolov* anticipates claim 1, at least because the Examiner has failed to establish that each and every element as set forth in the claim is found in *Nikolov*, because the Examiner has failed to establish that the identical invention is shown in *Nikolov* in as complete detail as is contained in claim 1, and because the Examiner has failed to establish that *Nikolov* discloses the elements of that claim arranged as required by the claim. Accordingly, Applicants respectfully

submit that the rejection of claim 1, and corresponding dependent claims 2-6, 8-10, 12, and 13, should be withdrawn.

Claims 15 and 20, although of different scope, recite limitations similar to that of claim 1 discussed above. For example, claim 15 recites, among other things: “. . . at least one optical component configured to split an input light beam into a first output light beam and a second output light beam . . . wherein rotation of [an] input polarization maintaining fiber with respect to said at least one optical component changes a coupling ratio.” In addition, claim 20 recites, among other things: “splitting [an] input light beam into at least a first output light beam and a second output light beam using an optical component . . . and rotating [an] input polarization maintaining optical fiber with respect to said optical component to change [a] coupling ratio.” Therefore, for the same reasons discussed above with respect to claim 1, Applicants respectfully submit that the Examiner has not established anticipation of claims 15 and 20. Accordingly, Applicants respectfully submit that the rejection of claims 15 and 20, and corresponding dependent claims 16, 18, 19, 22-28, 30-32, and 34-36, should be withdrawn.

B. Rejection Under 35 U.S.C. § 103

In the Office Action, the Examiner rejected claims 7, 17, and 29 under 35 U.S.C. § 103 as being unpatentable over *Nikolov*. Applicants respectfully disagree and submit that insofar as the rejection of claims 7, 17, and 29 relies on the characterization of *Nikolov* advanced by the Examiner in connection with the rejection of claims 1, 15, and 20, such rejection lacks an adequate foundation, for at least the reasons outlined at section II.A above, and should accordingly be withdrawn.

III. Comments on Reasons for Indication of Allowable Subject Matter

Applicants acknowledge with thanks the indication of allowable subject matter in claims 11, 14, 21, and 33, and Applicants also wish to thank the Examiner for the careful review of those claims.

Applicants submit the following comments regarding the Examiner’s statements of reasons for the indication of allowable subject matter in the Office Action. In general, Applicants agree with the Examiner that the inventions to which claims 11, 14, 21, and 33 are directed are patentable over the cited references, but respectfully disagree with the Examiner’s statement of reasons for allowance as set forth in the Office Action.

Particularly, Applicants submit that it is improper to characterize a single limitation, or subset of limitations, as constituting the basis for allowance of a claim. Rather, the patentability of a claim is properly determined with reference to the claim as a whole. Accordingly, Applicants do not concede that the reasons for allowable subject matter given by the Examiner are the only reasons that make, or would make, the claims allowable and Applicants do not make any admission or concession concerning the Examiner's statements in the Office Action concerning the allowability of claims 11, 14, 21, and 33 in view of the cited references.

CONCLUSION

In view of the discussion and amendments submitted herein, Applicants respectfully submit that each of the pending claims 1-36 is now in condition for allowance. Therefore, reconsideration of the rejections is requested and allowance of those claims is respectfully solicited. In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that could be clarified in a telephonic interview, the Examiner is respectfully requested to initiate the same with the undersigned attorney.

Dated this 9th day of July, 2007.

Respectfully submitted,

/Eric L. Maschoff/Reg. No. 36,596

Eric L. Maschoff
Attorney for Applicants
Registration No. 36,596
Customer No. 022913
Telephone No. (801) 533-9800